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October 31, 2018

BY ECF AND BY HAND

The Hon. Lewis A. Kaplan
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007-1312

Re: In re Customs and Tax Administration of the Kingdom of Denmark (SKAT)
Tax Refund Scheme Litigation, 18-md-2865 (LAK)

Dear Judge Kaplan:

On behalf of Plaintiff SKAT, the Customs and Tax Administration of the Kingdom of Denmark, we write to request leave to file under seal certain documents to be submitted to the Court in connection with our Motion for the Issuance of a Request for International Judicial Assistance to Obtain Evidence in Denmark (Letters Rogatory) (the "Motion").

The scale and complexity of the fraud perpetrated on SKAT, involving potentially hundreds of individuals and entities in multiple jurisdictions, means that discovery in this matter will be complex, international and time consuming. SKAT is keen to commence discovery as soon as possible and is preparing a series of Letters Rogatory for the Court's consideration.

With the Court's permission, Plaintiff SKAT intends to move this Court in the first instance for the issuance of Letters Rogatory seeking documentary evidence and testimony in Denmark from the whistleblower who initially informed SKAT of the existence of the dividend withholding tax fraud scheme (the "Whistleblower"). The Whistleblower's allegations describe the fraudulent scheme that SKAT has pleaded in its complaints, and specifically identifies as participants in the fraud two of the named defendants in this proceeding.

As the Court will appreciate, the fraudulent scheme is the subject matter of a criminal investigation by the Danish State Prosecutor for Serious Economic and International Crime ("SØIK"). The Whistleblower documents are part of the Danish criminal case in which several individuals and entities are being investigated, as referenced in the attached Declaration from Morten Niels Jakobsen, State Prosecutor at SØIK, dated October 22, 2018 ("Jakobsen Decl."), ¶¶ 2, 3. In these circumstances, SKAT must proceed carefully in civil litigation to minimize any potential impact on ongoing criminal investigations.

The Whistleblower's identity is known to SKAT and to SØIK and is being maintained as confidential in Denmark. (See Jakobsen Decl. ¶¶ 4-6.) SØIK has consented to SKAT requesting this Court to permit discovery, but has requested that SKAT seek to maintain information related to the Whistleblower as confidential, non-public information in the U.S. litigation to minimize the risk that it becomes available to certain persons being investigated in the Danish criminal proceedings. (Jakobsen Decl. ¶ 7.)

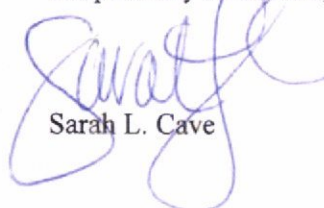
SKAT therefore seeks an order of this Court permitting it to file the memorandum of law in support of the Motion, supporting declaration with exhibits, and proposed Letter of Request under seal. SKAT would simultaneously publicly file a redacted version of its memorandum of law in support of the Motion, redacting the Whistleblower's identity, other identifying information, and discussion of documents authored by him (the "Documents").

The Letter of Request for International Judicial Assistance issued by this Court and evidence returned by Denmark should also be maintained under seal. Once issued by this Court, SKAT will liaise with the Danish Ministry of Justice to ensure that the confidentiality of the Whistleblower's identity and the Documents is maintained in Denmark.

This request to seal is no broader than necessary to effect the purposes of sealing: shielding the Whistleblower's identity and the specific information provided to SKAT, to avoid potential prejudice in an ongoing criminal investigation. SKAT will publicly file a redacted version of the memorandum of law in support of the Motion. Once the individual's identity is disclosed in the criminal case in Denmark, sealing will no longer be necessary and the sealed documents can be unsealed.

SKAT will be prepared to answer any questions the Court has about this request when the parties are before the Court on November 5, 2018 on the defendants' pending motion to dismiss. We contacted Mark Allison, counsel for the large majority of defendants, who stated that he had no objection to the request on behalf of his clients, and that those other defense counsel he has been able to contact also had no objection.

Respectfully submitted,



Sarah L. Cave

Attachment

cc: All counsel of record via ECF.

Via First Class Mail, with enclosures:
The Raubritter LLC Pension Plan
The Random Holdings 401K Plan
Edgepoint Holdings 401K Plan
Aerovane Logistics LLC Roth 401K Plan
Headsail Manufacturing LLC Roth 401K Plan